

# **Cabinet Office Ordinance on Financial Instruments Clearing Organization**

(Cabinet Office Ordinance No. 76 of December 6, 2002)

Chapter I General Provisions (Articles 1 to 3)

Chapter II Financial Instruments Clearing Organizations (Articles 4 to 28)

Chapter III Foreign Financial Instruments Clearing Organizations (Articles 29 to 37)

Chapter IV Coordination between Financial Instruments Clearing Organizations and Other Financial Instruments Clearing Organizations (Articles 38 to 46)

Chapter V Miscellaneous Provisions (Articles 47 to 50)

Supplementary Provisions

## **Chapter I General Provisions**

(Definitions)

Article 1 (1) As used in this Cabinet Office Ordinance, the terms "Securities," "Financial Instruments Business Operator," "Financial Instruments Exchange," "Market Derivatives Transaction," "Brokerage for Clearing of Securities, etc.," "Financial Instruments Obligation Assumption Service," "Financial Instruments Clearing Organization," "Foreign Financial Instruments Clearing Organization," "Securities Finance Company" and "Financial Instruments Exchange Engaged in the Operation of a Commodity Market" respectively mean Securities, Financial Instruments Business Operator, Financial Instruments Exchange, Market Derivatives Transaction, Brokerage for Clearing of Securities, etc., Financial Instruments Obligation Assumption Service, Financial Instruments Clearing Organization, Foreign Financial Instruments Clearing Organization, Securities Finance Company and Financial Instruments Exchange Engaged in the Operation of a Commodity Market as defined in Article 2 of the Financial Instruments and Exchange Act (Act No. 25 of 1948; hereinafter referred to as the "Act").

(2) In this Cabinet Office Ordinance, the meanings of the terms set forth in the following items are as prescribed respectively in those items:

(i) Subject Transaction: a Subject Transaction as defined in Article 2, paragraph (28) of the Act;

(ii) Officer: an Officer as defined in Article 21, paragraph (1), item (i) of the Act;

(iii) Financial Instruments Obligation Assumption Service, etc.: Financial

- Instruments Obligation Assumption Service, etc. as defined in Article 156-3, paragraph (1), item (vi) of the Act;
- (iv) Subject Voting Right: a Subject Voting Right as defined in Article 156-5-3, paragraph (1) of the Act;
- (v) Clearing Member: a Clearing Member as defined in Article 156-7, paragraph (2), item (iii) of the Act;
- (vi) Clearing Deposit: a Clearing Deposit as defined in Article 156-11 of the Act;
- (vii) Collaborating Clearing Organization, etc.: an collaborating clearing organization, etc. as defined in Article 156-20-16, paragraph (1) of the Act;
- (viii) Collaborative Financial Instruments Obligation Assumption Service: collaborative financial instruments obligation assumption service as defined in Article 156-20-16, paragraph (1) of the Act;
- (ix) Authorized Financial Instruments Clearing Organization: an Authorized Financial Instruments Clearing Organization as defined in Article 156-20-16, paragraph (3) of the Act; and
- (x) Collaboration Agreement: a Collaboration Agreement as defined in Article 156-20-17, paragraph (2), item (i) of the Act.

(Attaching of Translations)

Article 2 If there is a document to be submitted to the Prime Minister or the Commissioner of the Financial Services Agency pursuant to the provisions of the Act (limited to Chapter V-3 and Article 188 (limited to provisions related to a Financial Instruments Clearing Organization or its Clearing Member or to a Foreign Financial Instruments Clearing Organization or its Clearing Member); the same applies in the following Article) or the provisions of this Cabinet Office Ordinance, which cannot be prepared in the Japanese language due to special circumstances, a Japanese translation thereof must be attached; provided, however, that if said document is the minutes of a shareholders meeting or board or directors meeting (including any equivalent organ) and is prepared in the English language, it is sufficient to attach a Japanese translation of the summary thereof.

(Conversion of Foreign Currency)

Article 3 If a document to be submitted to the Prime Minister or the Commissioner of the Financial Services Agency pursuant to the provisions of the Act or this Cabinet Office Ordinance contains any item the amount of which is indicated in a foreign currency, the equivalent amount converted to Japanese currency and the standard used for the conversion must be included in the supplementary notes to said document.

## Chapter II Financial Instruments Clearing Organizations

(Submission of a Written License Application through the Commissioner of the Financial Services Agency)

Article 4 A person who intends to submit a written license application pursuant to the provisions of Article 156-3, paragraph (1) of the Act must submit the written license application through the Commissioner of the Financial Services Agency.

(Documents to Be Attached to a Written License Application)

Article 5 The documents specified by Cabinet Office Ordinance which are provided for in Article 156-3, paragraph (2), item (viii) of the Act are the following documents:

- (i) a document giving the name or trade name and address or location of a shareholder that holds voting rights amounting to ten percent or more of the number of all shareholders' voting rights of the license applicant (excluding voting rights attached to the shares for which voting rights cannot be exercised with regard to all of the matters that are subject to a resolution at a shareholders meeting, and including voting rights attached to the shares for which the shareholders are deemed to have voting rights pursuant to the provisions of Article 879, paragraph (3) of the Companies Act (Act No. 86 of 2005); the same applies in the following item and Article 48, paragraph (2), item (v)), and the number of voting rights held by such shareholder;
- (ii) a document giving an outline of the Parent Corporation (meaning a corporation or any other organization that holds the majority of all shareholders' voting rights of the license applicant) and Subsidiary Corporation (meaning a corporation or any other organization in which the license applicant holds the majority of all shareholders', etc. voting rights (meaning all shareholders', etc. voting rights as defined in Article 29-4, paragraph (2) of the Act; the same applies hereinafter));
- (iii) resumes and abridged copies of the residence certificates (limited to those listing a registered domicile) of the directors and auditors (in the case of a company with committees, the directors and executive officers; hereinafter the same applies in this item) or any documents that substitute for these, as well as documents in which the directors and auditors pledge that they do not fall under any of Article 82, paragraph (2), item (iii), (a) to (f) inclusive of the Act;
- (iv) in the case of a company with accounting advisors, resumes of the accounting advisors (if an accounting advisor is a corporation, a document describing the history of the corporation) and abridged copies of their residence certificates (limited to those listing a registered domicile) or any

- documents that substitute for these (if an accounting advisor is a corporation, the certificate of registered matters of the accounting advisor or any document that substitutes for this), as well as documents in which the accounting auditors pledge that they do not fall under any of Article 82, paragraph (2), item (iii), (a) to (f) inclusive of the Act;
- (v) a document describing the duties assigned to directors (or executive officers, in the case of a company with committees);
  - (vi) a document giving the status in terms of the securement of employees with knowledge of and experience in Financial Instruments Obligation Assumption Service and the assignment of said employees;
  - (vii) a document describing the organizational structure and division of responsibilities for handling processes;
  - (viii) a document giving an outline of the electronic data processing systems that will be used in Financial Instruments Obligation Assumption Service and detailing the locations of their installation, their capacities and the means of doing maintenance on them, as well as the process for responding in the event of a failure in the electronic data processing systems; and
  - (ix) other documents containing the matters to be used as a reference for the examination under the provisions of Article 156-4, paragraph (1) of the Act.

(Electronic or Magnetic Records to Be Attached to a Written License Application)

- Article 6 (1) The electronic or magnetic record specified by Cabinet Office Ordinance which is provided for in Article 165-3, paragraph (3) of the Act is a magnetic disk with a structure comprising a 90 millimeter flexible disk cartridge that complies with Japanese Industrial Standard X 6223 under the Industrial Standardization Act (Act No. 185 of 1949) (hereinafter such standards are referred to as "JIS").
- (2) Recording onto the electronic or magnetic record referred to in the preceding paragraph must be carried out in accordance with the following methods:
    - (i) the method prescribed in JIS X 6225 in terms of track format; and
    - (ii) the method prescribed in JIS X 0605 in terms of volume and file structure.
  - (3) A written statement of the following matters must be affixed onto the labeling area prescribed in JIS X 6223 of the electronic or magnetic record referred to in paragraph (1):
    - (i) the trade name of the license applicant; and
    - (ii) the date of application.

(Voting Rights Excluded from Voting Rights Acquired or Held, in View of the Manner of Acquisition or Holding or Any Other Circumstances)

Article 7 The matters specified by Cabinet Office Ordinance which are provided

for in Article 156-5-3, paragraph (1) of the Act are the following:

- (i) voting rights attached to shares in a Financial Instruments Clearing Organization (excluding the cases where the Financial Instruments Clearing Organization is a Financial Instruments Exchange; hereinafter the same applies in this Chapter, except in Article 18, Article 19, paragraph (1) and Article 25) which are acquired or held as trust property by a person engaged in the trust business (meaning the trust business as defined in Article 2, paragraph (1) of the Trust Business Act (Act No. 154 of 2004)) (excluding voting rights that the person engaged in the trust business has or will come to have the authority to exercise or voting rights with respect to whose exercise such a person has or will come to have the authority to give instructions);
- (ii) voting rights attached to shares in a Financial Instruments Clearing Organization which are acquired or held by a corporation, if the person with the right to represent the corporation or the manager with the right to represent the corporation has or will come to have the authority to exercise voting rights, the authority to give instructions on the exercise of voting rights, or the authority necessary for making an investment, based on said right to represent;
- (iii) voting rights attached to shares in a Financial Instruments Clearing Organization which are acquired or held by a person that has been entrusted with the shares in the Financial Instruments Clearing Organization that have been acquired, if the Officer or employee of the Financial Instruments Clearing Organization has acquired shares in the Financial Instruments Clearing Organization jointly with another Officer or employee of the Financial Instruments Clearing Organization (limited to acquisition under a fixed program wherein shares are continuously acquired without this being based on individual investment decisions, and wherein the amount to be contributed by each Officer or employee on each occasion is less than one million yen) (in the case of acquisition of any shares other than those acquired by the Financial Instruments Clearing Organization pursuant to the provisions of Article 156, paragraph (1) of the Companies Act (including the cases where applied after deemed replacement pursuant to Article 165, paragraph (3) of that Act), this is limited to such an acquisition that is made on entrustment to a Financial Instruments Business Operator) (excluding voting rights that the entrusted person has or will come to have the authority to exercise or voting rights with respect to whose exercise such a person has or will come to have the authority to give instructions);
- (iv) voting rights attached to shares in a Financial Instruments Clearing Organization which are acquired or held by an heir as estate (limited to those acquired prior to the day on which the heir (excluding the case of joint

succession) makes an unqualified acceptance (including cases where the heir is deemed to have made an unqualified acceptance) or makes a qualified acceptance or those in respect of which the coheirs of the estate have not yet completed the division of the estate); and

- (v) voting rights attached to shares in a Financial Instruments Clearing Organization which are acquired or held by the Financial Instruments Clearing Organization for the purpose of cancelling its own shares.

(Submission of a Statement of Holdings in Subject Voting Rights)

Article 8 (1) A person who is to submit a statement of holdings in Subject Voting Rights pursuant to the provisions of Article 156-5-3, paragraph (1) of the Act must submit a statement of holdings in Subject Voting Rights that is prepared using the appended form to the Commissioner of the Financial Services Agency.

(2) The matters specified by Cabinet Office Ordinance which are provided for in Article 156-5-3, paragraph (1) of the Act are those which are specified in the appended form.

(Facts Estimated to Have a Material Influence on the Decision of Financial and Operational Policies)

Article 9 The facts specified by Cabinet Office Ordinance which are provided for in Article 156-5-5, paragraph (1) of the Act are the following facts:

- (i) that any person who is or was an Officer or an employee and who is capable of influencing the decisions on the financial and operational or business policies of a Financial Instruments Clearing Organization holds the position of director or executive officer or any equivalent position at the Financial Instruments Clearing Organization;
- (ii) that the relevant person has extended an important loan to the Financial Instruments Clearing Organization;
- (iii) that the relevant person has provided important technology to the Financial Instruments Clearing Organization;
- (iv) that the relevant person has material operational or business dealings with the Financial Instruments Clearing Organization; and
- (v) that there are any other facts that are estimated to have a material influence on the decision of financial and operational or business policies of the Financial Instruments Clearing Organization.

(Application for Authorization as Major Shareholders)

Article 10 (1) A person that intends to obtain the authorization referred to in Article 156-5-5, paragraph (1) of the Act must submit a written application for authorization containing the following matters to the Commissioner of the Financial Services Agency:

- (i) the trade name or name and the location of the head office or principal office or the domicile or residence; and
  - (ii) if the person is a corporation, the name of its representative.
- (2) Documents specified in the following items must be attached to the written application for authorization referred to in the preceding paragraph according to the categories of persons set forth in the respective items:
- (i) a corporation which intends to acquire or hold Subject Voting Rights of not less than the Threshold Holding Ratio (meaning the Threshold Holding Ratio as defined in Article 156-5-5, paragraph (1) of the Act; hereinafter the same applies in this paragraph) of the all shareholders' voting rights of a Financial Instruments Clearing Organization: the following documents:
    - (a) a document describing its reasons for acquiring or holding those Subject Voting Rights; and
    - (b) the following documents relating to the corporation (if any of these documents are lacking due to the fact that said corporation is a foreign corporation or for any other reason, documents equivalent to the documents that are lacking):
      1. the articles of incorporation;
      2. a certificate of registered matters;
      3. resumes of the Officers (if an Officer is a corporation, a document describing the history of the corporation) and abridged copies of their residence certificates (limited to those listing a registered domicile) or any documents that substitute for these (if an Officer is a corporation, the Officer's certificate of registered matters or any document that substitutes for this), as well as documents in which the Officers pledge that they do not fall under any of Article 82, paragraph (2), item (iii), (a) to (f) inclusive of the Act;
      4. a document giving the name, domicile or residence, nationality and occupation of any person that holds voting rights exceeding five percent of the all shareholders', etc. voting rights of the corporation (if that person is a corporation or other organization, its trade name or name, the location of its head office or principal office and a description of its business), as well as the number of voting rights held by such person;
      5. if the application for authorization requires a resolution at a shareholders meeting or board of directors meeting (including any equivalent organ; the same applies in 5.), the minutes of a shareholders meeting or board of directors meeting or any other document evidencing that the necessary procedure has been followed;
      6. a document describing the content of its business;
      7. the most recent balance sheet, profit and loss statement, and statement

- of changes in net assets, and any other documents from which the recent status of business, property, income and expenditure of the corporation can be ascertained;
8. a document describing the system for holding Subject Voting Rights in the Financial Instruments Clearing Organization;
  9. a document giving the number of Subject Voting Rights in the Financial Instruments Clearing Organization that the corporation currently holds and the holding ratio, as well as the number of Subject Voting Rights in the Financial Instruments Clearing Organization that the corporation intends to acquire or hold after obtaining authorization and the holding ratio;
  10. a document describing any relationship that the corporation plans to have with the Financial Instruments Clearing Organization in terms of personnel, funds, technology, transactions or other matters after obtaining authorization, as well as the policy for that relationship (including any system for ensuring the sound and appropriate operation of the business of the Financial Instruments Clearing Organization); and
  11. other documents containing the matters to be used as a reference for the examination under the provisions of Article 156-5-6, paragraph (1) of the Act;
- (ii) a person that intends to acquire or hold Subject Voting Rights of not less than the Threshold Holding Ratio of the all shareholders' voting rights of a Financial Instruments Clearing Organization (other than a person as set forth in the preceding item): the following documents:
- (a) a document describing the person's reasons for acquiring or holding those Subject Voting Rights;
  - (b) the following documents relating to that person:
    1. an abridged copy of the person's residence certificate (limited to one listing a registered domicile) or any document that substitutes for this;
    2. a document in which the person pledges that the person does not fall under any of Article 82, paragraph (2), item (iii), (a) to (f) inclusive of the Act;
    3. a document giving the person's occupation;
    4. the documents set forth in (b), 8. to 11. inclusive of the preceding item;
- (iii) a person that intends to establish a company or other corporation that seeks to acquire or hold Subject Voting Rights of not less than the Threshold Holding Ratio of the all shareholders' voting rights of a Financial Instruments Clearing Organization: the following documents:
- (a) a document giving the person's reasons for seeking to establish that company or other corporation;

- (b) the following documents relating to the company or other corporation (if any of the documents are lacking due to the fact that the company or other corporation is a foreign corporation or for any other reason, documents equivalent to the documents that are lacking):
1. a document giving the name, domicile or residence, nationality and occupation of any person that is to become a shareholder (if said person is a corporation or other organization, its trade name or name, the location of its head office or principal office and a description of its business), as well as the number of voting rights to be held by said person;
  2. if the establishment of the company or other corporation requires a resolution at an organizational meeting (including any equivalent organ; the same applies in 2.), the minutes of an organizational meeting (in the case of establishment through a share transfer, merger or company split, the minutes of a shareholders meeting) or any other document evidencing that the necessary procedure has been followed;
  3. a document giving the location of the head office or principal office;
  4. documents from which the amount of the stated capital and any other status of property after establishment can be ascertained; and
  5. the documents set forth in item (i), (b), 1, 3, 6, and 8 to 11 inclusive.

(Preliminary Examination for Authorization as a Major Shareholder)

Article 11 A person who intends to obtain the authorization referred to in Article 156-5-5, paragraph (1) of the Act may request a preliminary examination by submitting the written application for authorization referred to in paragraph (1) of the preceding Article and documents equivalent to those specified in the items of paragraph (2) of that Article according to the categories of persons set forth in the respective items to the Commissioner of the Financial Services Agency.

(Exclusion from Application of Authorization as a Major Shareholder)

Article 12 The cases specified by Cabinet Office Ordinance which are provided for in Article 156-5-5, paragraph (2), of the Act are the following cases:

- (i) the case where there is no increase in the number of the Subject Voting Rights held;
- (ii) the case where the Subject Voting Rights are acquired or held as a result of the exercise of a security interest or of receipt of substitute performance;
- (iii) the case where the Subject Voting Rights are acquired or held by a Financial Instruments Business Operator (limited to one engaged in Type I Financial Instruments Business as defined in Article 28, paragraph (1) of the Act) in the course of business (excluding the case where the Subject Voting

- Rights are acquired or held as a result of the act set forth in Article 2, paragraph (8), item (i) of the Act); and
- (iv) the case where the Subject Voting Rights are acquired or held by a Securities Finance Company in the course of the business provided for in Article 156-24, paragraph (1) of the Act.

(Matters for a Specified Holder Notification)

Article 13 The matters specified by Cabinet Office Ordinance which are provided for in Article 156-5-5, paragraph (3) of the Act are the following matters:

- (i) the day on which the person became a Specified Holder (meaning a Specified Holder as defined in Article 156-5-5, paragraph (3) of the Act; the same applies in the following item and the following Article);
- (ii) the grounds on which the person came to fall within the category of a Specified Holder; and
- (iii) the number of Subject Voting Rights the person holds.

(Application for Authorization as a Major Shareholder Filed by a Specified Holder)

Article 14 The provisions of Article 10 (excluding paragraph (2), item (iii)) apply mutatis mutandis to the cases where a Specified Holder intends to obtain the authorization referred to in the proviso to Article 156-5-5, paragraph (4) of the Act.

(Application for Approval of Other Business)

Article 15 (1) A Financial Instruments Clearing Organization that intends to obtain the approval referred to in the proviso to Article 156-6, paragraph (2) of the Act must submit a written application for approval containing the following matters to the Commissioner of the Financial Services Agency:

- (i) the type of business for which approval is sought; and
- (ii) the scheduled date of the commencement of said business.
- (2) The following documents must be attached to the written application for approval referred to in the preceding paragraph:
- (i) a document describing the content and method of the business;
- (ii) a document describing the organization and assignment of personnel in charge of the details and methods of said business;
- (iii) the internal rules concerning the operation of said business; and
- (iv) a document describing the expected income and expenditure for the three years after the commencement of said business.

(Notification of the Abolition of Approved Business)

Article 16 A Financial Instruments Clearing Organization filing a notification

pursuant to the provisions of Article 156-6, paragraph (3) of the Act must submit a written notification containing the following matters to the Commissioner of the Financial Services Agency:

- (i) the type of business abolished;
- (ii) the date of abolition of said business; and
- (iii) the reasons for the abolition of said business.

(Matters to Be Included in the Operational Method Statements)

Article 17 The matters specified by Cabinet Office Ordinance which are provided for in Article 156-7, paragraph (2), item (viii) of the Act are the following matters:

- (i) if the Financial Instruments Clearing Organization conducts any business incidental to Financial Instruments Obligation Assumption Service (or, if it conducts business referred to in Article 156-6, paragraph (1) of the Act, any business incidental to Financial Instruments Obligation Assumption Service, etc.), a statement of such fact;
- (ii) if the Financial Instruments Clearing Organization conducts any business related to the Financial Instruments Obligation Assumption Service or conducts the Commodity Transaction Debt Assumption Services, etc. (meaning the Commodity Transaction Debt Assumption Services, etc. as defined in Article 170, paragraph (2) of the Commodity Derivatives Act (Act No. 239 of 1950); the same applies hereinafter) and any business incidental thereto, a statement of such fact;
- (iii) a statement to the effect that under a basic contract between a Clearing Member conducting Brokerage for Clearing of Securities, etc. (limited to that falling under Article 2, paragraph (27), item (i) of the Act) and a customer, if the customer intends to effect a Subject Transaction on behalf of the Clearing Member, the customer has applied for Brokerage for Clearing of Securities, etc. and the Clearing Member is treated as having undertaken that Brokerage for Clearing of Securities, etc.;
- (iv) if the Financial Instruments Clearing Organization conducts Financial Instruments Obligation Assumption Service for Market Derivatives Transactions, the particulars of the clearing margin; and
- (v) if the Financial Instruments Clearing Organization specifies a clearing deposit, the following matters:
  - (a) the particulars of the Securities that are specified as clearing deposits pursuant to the provisions of the following Article; and
  - (b) the particulars of the method of management for the clearing deposit.

(Clearing Deposit)

Article 18 The matters specified by Cabinet Office Ordinance which is provided

for in Article 156-11 of the Act are the money or Securities that are specified by a Financial Instruments Clearing Organization in its operational method statements, which are managed by the Financial Instruments Clearing Organization as a clearing deposit separately from other property, pursuant to the provisions of the operational method statements.

(Application for Authorization for Amendment of the Articles of Incorporation or Operational Method Statements)

Article 19 (1) A Financial Instruments Clearing Organization that intends to obtain the authorization referred to in Article 156-12 of the Act must submit a written application for authorization containing the following matters to the Commissioner of the Financial Services Agency:

- (i) the details of and reasons for the amendment; and
- (ii) the scheduled date of the amendment.

(2) The following documents must be attached to the written application for authorization referred to in the preceding paragraph: provided, however, that the document set forth in item (ii) is not required to be submitted as an attachment to a written application for authorization for the amendment to the operational method statements:

- (i) a comparative table presenting the articles of incorporation or operational method statements before and after the amendment;
- (ii) the minutes of a shareholders meeting (or, for an Incorporated Association-Operated Financial Instruments Exchange (meaning an Incorporated Association-Operated Financial Instruments Exchange as defined in Article 87-6, paragraph (1) of the Act; the same applies hereinafter) that has obtained approval under the provisions of Article 156-19, paragraph (1) of the Act, a general meeting), or any other document evidencing that the necessary procedure has been followed; and
- (iii) other documents that will serve as a reference.

(Criteria for Authorization for Amendment of the Articles of Incorporation or Operational Method Statements)

Article 20 When an application for authorization under the provisions of Article 156-12 of the Act is filed, the Commissioner of the Financial Services Agency must examine whether the application conforms to laws and regulations and is sufficient to allow the business to be operated appropriately and certainly.

(Matters for Public Inspection)

Article 21 (1) The matters specified by Cabinet Office Ordinance which are provided for in Article 156-12-2 of the Act are the total number of issued shares and the number of all shareholders' voting rights of the Financial Instruments

Clearing Organization.

- (2) If there has been a change in the total number of issued shares or the number of all shareholders' voting rights as a result of the conversion of shares (meaning the delivery of shares of another class in exchange for the acquisition of the relevant shares by the company issuing them) or the exercise of share options, the total number of issued shares or the number of all shareholders' voting rights, which is to be made available for public inspection pursuant to the provisions of Article 156-12-2 of the Act, may be those numbers as of the last day of the previous month.
- (3) If there has been a change in the total number of issued shares in a Financial Instruments Clearing Organization, the registered total number of issued shares may be deemed to be the total number of issued shares referred to in paragraph (1), which is to be made available for public inspection pursuant to the provisions of Article 156-12-2 of the Act, during the period until the registration of the change is completed.
- (4) A Financial Instruments Clearing Organization must keep a document containing the matters specified in paragraph (1) at its head office and make such document available for public inspection during its business hours.

(Application for Authorization for a Reduction of Amount of the Stated Capital)

- Article 22 (1) A Financial Instruments Clearing Organization that intends to obtain the authorization referred to in Article 156-12-3, paragraph (1) of the Act must submit a written application for authorization containing the following matters to the Commissioner of the Financial Services Agency:
- (i) the amount of the stated capital before the reduction;
  - (ii) the amount by which the stated capital is to be reduced;
  - (iii) the details of the reduction of the amount of the stated capital; and
  - (iv) the day on which the reduction of the amount of the stated capital takes effect.
- (2) The following documents must be attached to the written application for authorization referred to in the preceding paragraph:
    - (i) a document describing the reasons for reducing the amount of the stated capital;
    - (ii) a document describing the method of reducing the amount of the stated capital;
    - (iii) the minutes of a shareholders meeting or board of directors meeting or any other document evidencing that the necessary procedure has been followed;
    - (iv) the most recent balance sheet;
    - (v) a document evidencing that the public notice and the notice under Article 449, paragraph (2) of the Companies Act (if, in addition to public notice being issued in an official gazette, public notice has been issued by publication in a

daily newspaper that publishes matters on current affairs or by means of electronic public notice (meaning electronic public notice as defined in Article 2, item (xxxiv) of that Act) pursuant to the provisions of Article 449, paragraph (3) of that Act, public notice by such method) have been issued, and if any creditor has made an objection, evidencing that payment has been made or reasonable security has been provided to said creditor or reasonable property has been deposited in trust for the purpose of having said creditor receive payment, or that the reduction in the amount of the stated capital is not likely to harm said creditor;

- (vi) when a company issuing share certificates consolidates its shares, a document evidencing that the company has issued public notice pursuant to the provisions of the main clause of Article 219, paragraph (1) of the Companies Act or a document evidencing that the company does not issue share certificates for all of these shares; and
- (vii) other documents containing matters to be used as a reference.

(Notification of an Increase of Amount of the Stated Capital)

Article 23 (1) A Financial Instruments Clearing Organization filing a notification pursuant to the provisions of Article 156-12-3, paragraph (2) of the Act must submit a written notification containing the following matters to the Commissioner of the Financial Services Agency:

- (i) the amount of the stated capital before the increase;
  - (ii) the amount by which the stated capital is to be increased;
  - (iii) the details of the increase in the amount of the stated capital; and
  - (iv) the day on which the increase in the amount of the stated capital takes effect.
- (2) The following documents must be attached to the written notification referred to in the preceding paragraph:
- (i) a document describing the method of increasing the amount of the stated capital;
  - (ii) the minutes of a board of directors meeting or any other document evidencing that the necessary procedure has been followed; and
  - (iii) the expected balance sheet after the increase in the amount of the stated capital.

(Notification of a Change of Business Office)

Article 24 (1) A Financial Instruments Clearing Organization filing a notification pursuant to the provisions of Article 156-13 of the Act must submit a written notification containing the following matters to the Commissioner of the Financial Services Agency:

- (i) the details of the change; and

- (ii) the date of the change.
- (2) Documents specified in the following items must be attached to the written notification referred to in the preceding paragraph according to the categories of changes set forth in the respective items:
  - (i) a change in the matters set forth in Article 156-3, paragraph (1), item (iii) of the Act: the document set forth in paragraph (2), item (iii) of that Article;
  - (ii) a change in the matters set forth in Article 156-3, paragraph (1), item (iv) of the Act: the document set forth in paragraph (2), item (iii) of that Article and the documents set forth in Article 5, items (iii) and (v); and
  - (iii) a change in the matters set forth in Article 156-3, paragraph (1), item (v) of the Act: the document set forth in paragraph (2), item (iii) of that Article and the documents set forth in Article 5, item (iv).

(Application for Authorization for a Resolution to Abolish Financial

Instruments Obligation Assumption Service or a Resolution for Dissolution)  
Article 25 A Financial Instruments Clearing Organization that intends to obtain the authorization referred to in Article 156-18 of the Act must submit a written application for authorization to the Commissioner of the Financial Services Agency, with the following documents attached thereto:

- (i) a document describing the reasons for the abolition of Financial Instruments Obligation Assumption Service or the reasons for the dissolution;
- (ii) the minutes of a shareholders meeting (in the case of an Incorporated Association-Operated Financial Instruments Exchange, a general meeting) (when a resolution of a shareholders meeting is deemed to have been adopted pursuant to the provisions of Article 319, paragraph (1) of the Companies Act, a document evidencing that the relevant case falls under said case);
- (iii) the balance sheet (including any related notes) and profit and loss statements (including any related notes) for the most recent business year, as well as a document clarifying the details of the assets and liabilities as of the time of the resolution;
- (iv) a document describing the way of completing the Financial Instruments Obligation Assumption Service; and
- (v) other documents containing matters to be used as a reference.

(Application for Approval of Financial Instruments Obligation Assumption Service by a Financial Instruments Exchange)

Article 26 (1) A Financial Instruments Exchange that intends to obtain the approval referred to in Article 156-19, paragraph (1) of the Act must submit a written application for approval containing the following matters to the Prime Minister through the Commissioner of the Financial Services Agency:

- (i) the type of business for which approval is sought; and
  - (ii) the scheduled date of commencement of said business.
- (2) The following documents must be attached to the written application for approval referred to in the preceding paragraph:
- (i) the operational method statements;
  - (ii) a document describing the organization and assignment of personnel in charge of said business; and
  - (iii) a document describing the expected income and expenditure for the three years after the commencement of said business.

(Application for Approval of the Commodity Transaction Debt Assumption Services by a Financial Instruments Exchange Engaged in the Operation of a Commodity Market)

Article 27 (1) A Financial Instruments Exchange Engaged in the Operation of a Commodity Market that intends to obtain the approval referred to in Article 156-19, paragraph (2) of the Act must submit a written application for approval containing the following matters to the Commissioner of the Financial Services Agency:

- (i) the type of business for which approval is sought; and
  - (ii) the scheduled date of commencement of said business.
- (2) The following documents must be attached to the written application for approval referred to in the preceding paragraph:
- (i) a document describing the content and method of the business;
  - (ii) a document describing the organization and assignment of personnel in charge of the details and methods of said business;
  - (iii) the internal rules concerning the operation of said business; and
  - (iv) a document describing the expected income and expenditure for the three years after the commencement of said business.

(Notification of the Abolition of the Commodity Transaction Debt Assumption Services for Which Approval Has Been Granted)

Article 28 A Financial Instruments Exchange Engaged in the Operation of a Commodity Market that files a notification pursuant to the provisions of Article 156-19, paragraph (3) of the Act must submit a written notification containing the following matters to the Commissioner of the Financial Services Agency:

- (i) the type of business abolished;
- (ii) the date of abolition of said business; and
- (iii) the reasons for the abolition of said business.

### **Chapter III Foreign Financial Instruments Clearing Organization**

(Submission of a Written License Application through the Commissioner of the Financial Services Agency)

Article 29 A person who intends to submit a written license application pursuant to the provisions of Article 156-20-3, paragraph (1) of the Act must submit the written license application through the Commissioner of the Financial Services Agency.

(Documents to Be Attached to a Written License Application)

Article 30 The documents specified by Cabinet Office Ordinance which are provided for in Article 156-20-3, paragraph (2), item (vii) of the Act are the following documents:

- (i) a document giving the name or trade name and address or location of a shareholder that holds voting rights amounting to ten percent or more of the number of all shareholders', etc. voting rights of the license applicant, and the number of voting rights held by such shareholder;
- (ii) a document giving an outline of the Parent Corporation (meaning a corporation or any other organization that holds the majority of all shareholders', etc. voting rights of the license applicant) and subsidiary corporation (meaning a corporation or any other organization in which the license applicant holds the majority of all shareholders', etc. voting rights);
- (iii) resumes of the Officers (if an Officer is a corporation, a document describing the history of the corporation), and if there is any office in Japan, abridged copies of the residence certificates (limited to those listing a registered domicile) of the Officers stationed at said office or any documents that substitute for these, as well as documents in which the Officers pledge that they do not fall under any of Article 82, paragraph (2), item (iii), (a) to (f) inclusive of the Act;
- (iv) the resume and an abridged copy of the residence certificate (limited to one listing a registered domicile) of the representative person in Japan or any documents that substitute for these, as well as a document in which the representative person in Japan pledges that the representative person in Japan does not fall under any of Article 82, paragraph (2), item (iii), (a) to (f) inclusive of the Act;
- (v) a document describing the duties assigned to directors that execute business;
- (vi) a document giving the status in terms of the securement of employees with knowledge of and experience in Financial Instruments Obligation Assumption Service and the assignment of said employees;
- (vii) a document describing the organizational structure and division of responsibilities for handling processes;

- (viii) a document giving an outline of the electronic data processing systems that will be used in Financial Instruments Obligation Assumption Service and detailing the locations of their installation, their capacities and the means of doing maintenance on them, as well as the process for responding in the event of a failure in the electronic data processing systems; and
- (ix) a certificate of registered matters of a corporation (including any document equivalent thereto);
- (x) a document evidencing that the period specified in Article 19-4-4, paragraph (1) of the Order for Enforcement of the Financial Instruments and Exchange Act (Cabinet Order No. 321 of 1965); hereinafter referred to as the "Order") has elapsed from when the license applicant commenced the same kind of business as Financial Instruments Obligation Assumption Service in a foreign state in compliance with laws and regulations of said foreign state, or that the license applicant falls under the case specified in paragraph (2) of that Article;
- (xi) a document stating the law for the same type of business as Financial Instruments Obligation Assumption Service in the state where the license applicant is located; and
- (xii) other documents containing the matters to be used as a reference for the examination under the provisions of Article 156-20-4, paragraph (1) of the Act.

(Electronic or Magnetic Records to Be Attached to a Written License Application)

- Article 31 (1) The electronic or magnetic record specified by Cabinet Office Ordinance which is provided for in Article 165-20-3, paragraph (3) of the Act is a magnetic disk with a structure comprising a 90 millimeter flexible disk cartridge that complies with JIS X 6223.
- (2) Recording onto the electronic or magnetic record referred to in the preceding paragraph must be carried out in accordance with the following methods:
- (i) the method prescribed in JIS X 6225 in terms of track format; and
  - (ii) the method prescribed in JIS X 0605 in terms of volume and file structure.
- (3) A written statement of the following matters must be affixed onto the labeling area prescribed in JIS X 6223 of the electronic or magnetic record referred to in paragraph (1):
- (i) the trade name or name of the license applicant; and
  - (ii) the date of application.

(Company Split or Business Transfer)

- Article 32 (1) The case specified by Cabinet Office Ordinance which is provided for in Article 19-4-4, paragraph (2), item (ii) of the Order is a case in which it is

found that the same type of business as Financial Instruments Obligation Assumption Service can be conducted through the business taken over as a result of the company split.

- (2) The case specified by Cabinet Office Ordinance which is provided for in Article 19-4-4, paragraph (2), item (iii) of the Order is a case in which it is found that the same type of business as Financial Instruments Obligation Assumption Service can be conducted through the business transferred.

(Matters to Be Included in the Operational Method Statements)

Article 33 The matters specified by Cabinet Office Ordinance which are provided for in Article 156-20-6, paragraph (2), item (vi) of the Act are the following matters:

- (i) a statement to the effect that under a basic contract between a Clearing Member conducting Brokerage for Clearing of Securities, etc. (limited to that falling under Article 2, paragraph (27), item (i) of the Act) and a customer, if the customer intends to effect a Subject Transaction on behalf of the Clearing Member, the customer has applied for Brokerage for Clearing of Securities, etc. and the Clearing Member is treated as having undertaken that Brokerage for Clearing of Securities, etc.; and
- (ii) when the money or other property to be deposited by a Clearing Member to ensure the performance of obligations to a Foreign Financial Instruments Clearing Organization is specified, the particulars of said property and the means of managing it.

(Application for Authorization for the Amendment of the Articles of Incorporation or Operational Method Statements)

Article 34 (1) A Foreign Financial Instruments Clearing Organization that intends to obtain the authorization referred to in Article 156-20-10 of the Act must submit a written application for authorization containing the following matters to the Commissioner of the Financial Services Agency:

- (i) the details of and reasons for the amendment; and
- (ii) the scheduled date of the amendment.
- (2) The following documents must be attached to the written application for authorization referred to in the preceding paragraph: provided, however, that the document set forth in item (ii) is not required to be submitted as an attachment to a written application for authorization for the amendment to the operational method statements:
- (i) a comparative table presenting the articles of incorporation (limited to the part related to the Financial Instruments Obligation Assumption Service) or operational method statements before and after the amendment;
- (ii) the minutes of an organ equivalent to a shareholders meeting, or any other

document evidencing that the necessary procedure has been followed; and  
(iii) other documents that will serve as a reference.

(Criteria for Authorization for the Amendment of the Articles of Incorporation  
or Operational Method Statements)

Article 35 When an application for authorization under the provisions of Article 156-20-10 of the Act is filed, the Commissioner of the Financial Services Agency must examine whether the application conforms to laws and regulations and is sufficient to allow Financial Instruments Obligation Assumption Service to be operated appropriately and certainly.

(Notification of Change of Amount of the Stated Capital)

Article 36 (1) A Foreign Financial Instruments Clearing Organization filing a notification pursuant to the provisions of Article 156-20-11 of the Act must submit a written notification containing the following matters to the Commissioner of the Financial Services Agency:

- (i) the details of the change; and
- (ii) the date of the change.

(2) Documents specified in the following items must be attached to the written notification referred to in the preceding paragraph according to the categories of changes set forth in the respective items:

- (i) a change in the matters set forth in Article 156-20-3, paragraph (1), items (ii) to (iv) inclusive of the Act: the document set forth in Article 30, item (ix);
- (ii) a change in the matters set forth in Article 156-20-3, paragraph (1), item (v) of the Act: the documents set forth in Article 30, items (iii), (v) and (ix);
- (iii) a change in the matters set forth in Article 156-20-3, paragraph (1), item (vi) of the Act: the documents set forth in Article 30, items (iv) and (ix); and
- (iv) a change in the matters set forth in Article 156-20-3, paragraph (1), item (vii) of the Act: the document set forth in Article 30, item (vii).

(Application for Authorization for the Abolition of Financial Instruments  
Obligation Assumption Service)

Article 37 A Foreign Financial Instruments Clearing Organization that intends to obtain the authorization referred to in Article 156-20-15 of the Act must submit a written application for authorization to the Commissioner of the Financial Services Agency, with the following documents attached thereto:

- (i) a document describing the reasons for the abolition of the Financial Instruments Obligation Assumption Service;
- (ii) the minutes of an organ equivalent to a shareholders meeting or board of directors meeting or any other document evidencing that the necessary procedure has been followed;

- (iii) the balance sheet (including any related notes) and profit and loss statements (including any related notes) for the most recent business year, as well as a document clarifying the details of the assets and liabilities from Financial Instruments Obligation Assumption Service;
- (iv) a document describing the way of completing the Financial Instruments Obligation Assumption Service; and
- (v) other documents containing matters to be used as a reference.

#### **Chapter IV Coordination between Financial Instruments Clearing Organization and Other Financial Instruments Clearing Organization**

(Acts Constituting Collaborative Financial Instruments Obligation Assumption Service)

Article 38 The acts specified by Cabinet Office Ordinance which are provided for in Article 156-20-16, paragraph (1) of the Act are the following acts:

- (i) an act whereby the Financial Instruments Clearing Organization bears by itself the obligations of a Clearing Member arising from a Subject Transaction other than the transactions set forth in Article 156-62, item (i) of the Act and the obligations of the counterparty of the Clearing Member arising from said Subject Transaction, and then has a third party bear these obligations of the Clearing Member;
- (ii) an act whereby the Financial Instruments Clearing Organization has a third party bear the obligations of a Clearing Member arising from a Subject Transaction other than the transactions set forth in Article 156-62, item (i) of the Act and the obligations of the counterparty of the Clearing Member arising from said Subject Transaction, and then bears by itself these obligations of the counterparty of the Clearing Member;
- (iii) an act whereby the Financial Instruments Clearing Organization bears by itself the obligations of a Clearing Member arising from a Subject Transaction other than the transactions set forth in Article 156-62, item (i) of the Act and then has a third party bear these obligations of the Clearing Member, and it has a third party bear the obligations of the counterparty of the Clearing Member arising from said Subject Transaction, and then bears by itself the obligations of the counterparty of the Clearing Member;
- (iv) in addition to what is set forth in the preceding three items, an act whereby, for the purpose of clearing claims and obligations arising from a Subject Transaction other than the transactions set forth in Article 156-62, item (i) of the Act, the Financial Instruments Clearing Organization has a third party bear the obligations of a Clearing Member arising from said Subject Transaction between the Clearing Member and the counterparty thereof, while bearing by itself the obligations of the counterparty of the

Clearing Member arising from said Subject Transaction.

(Submission of a Written Application for Authorization through the  
Commissioner of the Financial Services Agency)

Article 39 A Financial Instruments Clearing Organization that intends to submit a written application for authorization pursuant to the provisions of Article 156-20-17, paragraph (1) of the Act must submit the written application for authorization through the Commissioner of the Financial Services Agency.

(Documents to Be Attached to Written Application for Authorization)

Article 40 (1) The matters specified by Cabinet Office Ordinance which are provided for provided in Article 156-20-17, paragraph (2), item (ii) of the Act are the following:

- (i) matters concerning the requirements for a Clearing Member and the counterparty thereof;
  - (ii) matters concerning assumption as the Collaborative Financial Instruments Obligation Assumption Service, novation or bearing by any other method of obligations, and performance thereof; and
  - (iii) matters concerning ensuring the performance of obligations of a Clearing Member and the counterparty thereof.
- (2) The matters specified by Cabinet Office Ordinance which are provided for in Article 156-20-17, paragraph (2), item (iii), (c) of the Act are the following (excluding those included in the operational method statements (including those equivalent thereto and excluding those related to the Collaborative Financial Instruments Obligation Assumption Service; the same applies in Article 48, paragraph (8), item (i) of the Collaborating Clearing Organization, etc.):
- (i) matters concerning the requirements for the counterparty of a Clearing Member;
  - (ii) matters concerning assumption, novation or bearing by any other method of obligations carried out as the business of the Collaborating Clearing Organization, etc. (limited to business related to Collaborative Financial Instruments Obligation Assumption Service), and performance thereof;
  - (iii) matters concerning ensuring the performance of obligations of the counterparty of a Clearing Member;
  - (iv) when money or other property to be deposited by the counterparty of a Clearing Member to ensure the performance of obligations to the Collaborating Clearing Organization, etc. is specified, the particulars of said property and the means of managing it;
  - (v) the name and title of the person responsible for the management of the business of the Collaborating Clearing Organization, etc. (limited to business

- related to Collaborative Financial Instruments Obligation Assumption Service); and
- (vi) the name of the operating unit and the organizational structure for conducting the business of the Collaborating Clearing Organization, etc. (limited to business related to Collaborative Financial Instruments Obligation Assumption Service).
- (3) The documents specified by Cabinet Office Ordinance which are provided for in Article 156-20-17, paragraph (2), item (v) of the Act are the following documents:
- (i) the minutes of a shareholders meeting or board of directors meeting (including any equivalent organ) where it was resolved that the Collaborating Clearing Organization, etc. will conduct the business related to Collaborative Financial Instruments Obligation Assumption Service, or any other document evidencing that the necessary procedure has been followed;
  - (ii) when the Collaborating Clearing Organization, etc. is neither a Financial Instruments Clearing Organization nor a Foreign Financial Instruments Clearing Organization, the following documents:
    - (a) a document giving the name or trade name and address or location of a person that holds voting rights amounting to ten percent or more of the number of all shareholders', etc. voting rights of the Collaborating Clearing Organization, etc., and the number of voting rights held by such person;
    - (b) a document giving an outline of the parent corporation (meaning a corporation or any other organization that holds the majority of all shareholders', etc. voting rights of the Collaborating Clearing Organization, etc.) and subsidiary corporation (meaning a corporation or any other organization in which the Collaborating Clearing Organization, etc. holds the majority of all shareholders', etc. voting rights);
    - (c) resumes of the Officers of the Collaborating Clearing Organization, etc. (if an Officer of the Collaborating Clearing Organization, etc. is a corporation, a document describing the history of the corporation), and if there is any office of the Collaborating Clearing Organization, etc. in Japan, abridged copies of the residence certificates (limited to those listing a registered domicile) of the Officers stationed at said office or any documents that substitute for these, as well as documents in which the Officers of the Collaborating Clearing Organization, etc. pledge that they do not fall under any of Article 82, paragraph (2), item (iii), (a) to (f) inclusive of the Act;
    - (d) a document describing the duties assigned to directors that execute the business of the Collaborating Clearing Organization, etc.;
    - (e) a document giving the status in terms of the securement of employees with knowledge of and experience in the Collaborative Financial

- Instruments Obligation Assumption Service of the Collaborating e Clearing Organization, etc. and the assignment of said employees;
- (f) a document describing the organizational structure and division of responsibilities for handling processes of the Collaborating Clearing Organization, etc.;
  - (g) a document giving an outline of the electronic data processing systems that will be used by the Collaborating Clearing Organization, etc. in its business (limited to business related to Collaborative Financial Instruments Obligation Assumption Service) and detailing the locations of their installation, their capacities and the means of doing maintenance on them, as well as the process for responding in the event of a failure in the electronic data processing systems;
  - (h) a certificate of registered matters (including any document equivalent thereto) of the Collaborating Clearing Organization, etc.;
  - (i) a document evidencing that the period specified in Article 19-4-5, paragraph (1) of the Order has elapsed from when the Collaborating Clearing Organization, etc. commenced the same kind of business as Financial Instruments Obligation Assumption Service in a foreign state in compliance with laws and regulations of said foreign state, or that the Collaborating Clearing Organization, etc. falls under the case specified in paragraph (2) of that Article; and
  - (j) a document stating the law for the same type of business as Financial Instruments Obligation Assumption Service in the state where the Collaborating Clearing Organization, etc. is located; and
  - (iii) other documents containing the matters to be used as a reference for the examination under the provisions of Article 156-20-18, paragraph (1) of the Act.

(Electronic or Magnetic Records to Be Attached to a Written Application for Authorization)

- Article 41 (1) The electronic or magnetic record specified by Cabinet Office Ordinance which is provided for in Article 165-20-17, paragraph (3) of the Act is a magnetic disk with a structure comprising a 90 millimeter flexible disk cartridge that complies with JIS X 6223.
- (2) Recording onto the electronic or magnetic record referred to in the preceding paragraph must be carried out in accordance with the following methods:
    - (i) the method prescribed in JIS X 6225 in terms of track format; and
    - (ii) the method prescribed in JIS X 0605 in terms of volume and file structure.
  - (3) A written statement of the following matters must be affixed onto the labeling area prescribed in JIS X 6223 of the electronic or magnetic record referred to in paragraph (1):

- (i) the trade name of the applicant for authorization; and
- (ii) the date of application.

(Company Split or Business Transfer)

Article 42 (1) The case specified by Cabinet Office Ordinance which is provided for in Article 19-4-5, paragraph (2), item (ii) of the Order is a case in which it is found that the same type of business as Financial Instruments Obligation Assumption Service can be conducted through the business taken over as a result of the company split.

(2) The case specified by Cabinet Office Ordinance which is provided for in Article 19-4-5, paragraph (2), item (iii) of the Order is a case in which it is found that the same type of business as Financial Instruments Obligation Assumption Service can be conducted through the business transferred.

(Application for Authorization for a Change)

Article 43 (1) An Authorized Financial Instruments Clearing Organization that intends to obtain the authorization referred to in Article 156-20-21, paragraph (1) of the Act must submit a written application for authorization containing the following matters to the Commissioner of the Financial Services Agency:

- (i) the details of and reasons for the change; and
- (ii) the scheduled date of the change.

(2) The following documents must be attached to the written application for authorization referred to in the preceding paragraph:

- (i) in order to change any of the matters contained in the documents set forth in Article 156-20-17, paragraph (2), item (i) or item (ii) of the Act, a comparative table presenting the relevant document before and after the change; and
- (ii) other documents that will serve as a reference.

(Criteria for Authorization for a Change)

Article 44 When an application for authorization under the provisions of Article 156-20-21, paragraph (1) of the Act is filed, the Commissioner of the Financial Services Agency must examine whether the application conforms to laws and regulations and is sufficient to allow the Collaborative Financial Instruments Obligation Assumption Service and the business of a Collaborating Clearing Organization, etc. (limited to business related to Collaborative Financial Instruments Obligation Assumption Service) to be operated appropriately and certainly.

(Notification of a Change)

Article 45 (1) An Authorized Financial Instruments Clearing Organization filing

a notification pursuant to the provisions of Article 156-20-21, paragraph (2) of the Act must submit a written notification containing the following matters to the Commissioner of the Financial Services Agency:

- (i) the details of the change; and
- (ii) the date of the change.

(2) Documents specified in the following items must be attached to the written notification referred to in the preceding paragraph according to the categories of changes set forth in the respective items:

- (i) a change in the matters set forth in Article 156-20-17, paragraph (1), item (ii) or item (iii), (a) to (c) inclusive of the Act: the document set forth in Article 40, paragraph (3), item (ii), (h);
- (ii) a change in the matters set forth in Article 156-20-17, paragraph (1), item (iii), (d) of the Act: the document set forth in Article 40, paragraph (3), item (ii), (c), (d), and (h); and
- (iii) a change in the matters included in the documents set forth in Article 156-20-17, paragraph (2), item (iii), (b) or (c) of the Act: a comparative table presenting the relevant document before and after the change and the relevant document after the change.

(Notification of Abolition)

Article 46 An Authorized Financial Instruments Clearing Organization filing a notification pursuant to the provisions of Article 156-20-21, paragraph (3) of the Act must submit a written notification containing the following matters to the Commissioner of the Financial Services Agency:

- (i) the date of the abolition of the Collaborative Financial Instruments Obligation Assumption Service; and
- (ii) the reasons for the abolition of the Collaborative Financial Instruments Obligation Assumption Service.

## **Chapter V Miscellaneous Provisions**

(Submission of Rules Based on the Operational Method Statements)

Article 47 If a Financial Instruments Clearing Organization or Foreign Financial Instruments Clearing Organization has established, abolished, or amended rules based on its operational method statements, it must notify the Commissioner of the Financial Services Agency of this without delay.

(Documents to be Submitted in Connection with the Business of Financial Instrument Clearing Organization)

Article 48 (1) A Financial Instruments Clearing Organization must submit the financial statements and business reports provided for in Article 435,

paragraph (2) of the Companies Act to the Commissioner of the Financial Services Agency within three months from the end of each business year, pursuant to the provisions of Article 188 of the Act.

- (2) The following documents must be attached to the documents to be submitted pursuant to the provisions of the preceding paragraph:
  - (i) annexed detailed statements referred to in Article 435, paragraph (2) of the Companies Act;
  - (ii) a schedule of clearing deposits, or money or other property to be deposited by a Clearing Member to ensure the performance of obligations to the Financial Instruments Clearing Organization;
  - (iii) a schedule of clearing margins (limited to a Financial Instruments Clearing Organization which conducts the Financial Instruments Obligation Assumption Service with regard to Market Derivatives Transactions);
  - (iv) schedules of other accounts; and
  - (v) a document giving the name or trade name and address or location of a shareholder that holds voting rights amounting to ten percent or more of the number of all shareholders' voting rights of the Financial Instruments Clearing Organization, and the number of voting rights held by such shareholder.
- (3) Where a Financial Instruments Exchange conducts business as a Financial Instruments Clearing Organization with the approval of the Prime Minister it has obtained pursuant to the provisions of Article 156-19, paragraph (1) of the Act, if it has submitted the documents set forth in the preceding two paragraphs or documents equivalent thereto (excluding the document set forth in item (ii) of the preceding paragraph) within the period referred to in paragraph (1), it is not required to submit the documents set forth in the preceding two paragraphs (excluding the document set forth in item (ii) of the preceding paragraph), notwithstanding the provisions of these paragraphs.
- (4) Where any of the events set forth in the following items (referred to as an "Incident" in the following paragraph) has taken place, a Financial Instruments Clearing Organization must report it to the Commissioner of the Financial Services Agency immediately pursuant to the provisions of Article 188 of the Act:
  - (i) an event wherein a director, accounting advisor (if an accounting advisor is a corporation, including members who perform its duties), company auditor, executive officer or employee has committed an act in violation of laws and regulations or the operational method statements (or, for an Authorized Financial Instruments Clearing Organization, including a Collaboration Agreement) in the course of executing their duties; and
  - (ii) suspension of whole or part of Financial Instruments Obligation Assumption Service due to a failure in an electronic data processing system

or any other accidental cause.

- (5) If the details of an Incident reported pursuant to the provisions of the preceding paragraph have become clear, a Financial Instruments Clearing Organization must submit a document containing the following matters to the Commissioner of the Financial Services Agency without delay, pursuant to the provisions of Article 188 of the Act:
  - (i) details of the Incident;
  - (ii) improvement measures in response to the Incident; and
  - (iii) other necessary matters.
- (6) An Authorized Financial Instruments Clearing Organization must submit its balance sheet and profit and loss statement of a Collaborating Clearing Organization, etc. subject to authorization (limited to a person other than a Financial Instruments Clearing Organization or Foreign Financial Instruments Clearing Organization; hereinafter the same applies in this Article) and any other documents from which the status of business, property, income and expenditure of the Collaborating Clearing Organization, etc. can be ascertained, to the Commissioner of the Financial Services Agency within three months from the end of each business year of the Collaborating Clearing Organization, etc., pursuant to the provisions of Article 188 of the Act.
- (7) The following documents must be attached to the documents to be submitted pursuant to the provisions of the preceding paragraph:
  - (i) a schedule of money or other property to be deposited by the counterparty of a Clearing Member to ensure the performance of obligations to the Collaborating Clearing Organization, etc. subject to authorization; and
  - (ii) a document giving the name or trade name and address or location of a person that holds voting rights amounting to ten percent or more of the number of all shareholders', etc. voting rights of the Collaborating Clearing Organization, etc. subject to authorization, and the number of voting rights held by such person.
- (8) Where any of the events set forth in the following items (referred to as an "Incident" in the following paragraph) has taken place, an Authorized Financial Instruments Clearing Organization must report it to the Commissioner of the Financial Services Agency immediately pursuant to the provisions of Article 188 of the Act:
  - (i) an event wherein an Officer or employee of the Collaborating Clearing Organization, etc. subject to authorization has committed an act in violation of laws and regulations or the operational method statements or Collaboration Agreement of the Collaborating Clearing Organization, etc. in the course of executing their duties (limited to those related to the Collaborative Financial Instruments Obligation Assumption Service); and
  - (ii) suspension of whole or part of the business of the Collaborating Clearing

Organization, etc. subject to authorization (limited to the business related to the Collaborative Financial Instruments Obligation Assumption Service) due to a failure in an electronic data processing system of the Collaborating Clearing Organization, etc. or other accidental cause.

- (9) If the details of an Incident reported pursuant to the provisions of the preceding paragraph have become clear, an Authorized Financial Instruments Clearing Organization must submit a document containing the following matters to the Commissioner of the Financial Services Agency without delay, pursuant to the provisions of Article 188 of the Act:
- (i) details of the Incident;
  - (ii) improvement measures in response to the Incident; and
  - (iii) other necessary matters.

(Documents to Be Submitted in Connection with the Business of Foreign Financial Instrument Clearing Organization)

Article 49 (1) A Foreign Financial Instruments Clearing Organization must submit its balance sheet and profit and loss statement, and any other documents from which the status of business, property, income and expenditure of the Foreign Financial Instruments Clearing Organization can be ascertained, to the Commissioner of the Financial Services Agency within three months from the end of each business year, pursuant to the provisions of Article 188 of the Act.

- (2) The following documents must be attached to the documents to be submitted pursuant to the provisions of the preceding paragraph:
- (i) a schedule of money or other property to be deposited by a Clearing Member to ensure the performance of obligations to the Foreign Financial Instruments Clearing Organization; and
  - (ii) a document giving the name or trader name and address or location of a person that holds voting rights amounting to ten percent or more of the number of all shareholders', etc. voting rights of the Foreign Financial Instruments Clearing Organization, and the number of voting rights held by such person.
- (3) Where any of the events set forth in the following items (referred to as an "Incident" in the following paragraph) has taken place, a Foreign Financial Instruments Clearing Organization must report it to the Commissioner of the Financial Services Agency immediately pursuant to the provisions of Article 188 of the Act:
- (i) an event wherein an Officer, representative person in Japan or employee has committed an act in violation of laws and regulations or operational method statements in the course of executing their duties related to Financial Instruments Obligation Assumption Service; and

(ii) suspension of whole or part of Financial Instruments Obligation Assumption Service due to a failure in an electronic data processing system or other accidental cause.

(4) If the details of an Incident reported pursuant to the provisions of the preceding paragraph have become clear, a Foreign Financial Instruments Clearing Organization must submit a document containing the following matters to the Commissioner of the Financial Services Agency without delay, pursuant to the provisions of Article 188 of the Act:

(i) details of the Incident;

(ii) improvement measures in response to the Incident; and

(iii) other necessary matters.

(Standard Period for Processing)

Article 50 (1) The Prime Minister or the Commissioner of the Financial Services Agency is to endeavor to render a disposition on an application within one month from the arrival of the application at the office, in the case of an application for the approval referred to in the proviso to Article 156-6, paragraph (2) of the Act or for the authorization referred to in Article 156-12, Article 156-12-3, paragraph (1), Article 156-18, Article 156-20-10, Article 156-20-15 or Article 156-20-21, paragraph (1) of the Act; or within two months from the arrival of the application at the office, in the case of an application for the license referred to in Article 156-2 or Article 156-20-2 of the Act, for the authorization referred to in Article 156-5-5, paragraph (1) or the proviso to paragraph (4) or Article 156-20-16, paragraph (1) of the Act or for the approval referred to in Article 156-19, paragraph (1) or paragraph (2) of the Act.

(2) The periods of time prescribed in the preceding paragraph do not include the following periods of time:

(i) any period of time required to amend the application;

(ii) any period of time required for the applicant to change the content of the application; and

(iii) any period of time required for the applicant to add materials that are found to be necessary for the examination of the application.